

UNITED STATES COURT OF APPEALS

Filed 12/16/96

TENTH CIRCUIT

ROLAND S. WEAVER,

Plaintiff-Appellant,

vs.

CITY OF TOPEKA; TOPEKA
HOUSING AUTHORITY; LANA
BALKA, Topeka Housing Authority
Director; LAWRENCE WILSON, Topeka
Housing Authority Assistant Director;
STEVE CORELLO, Topeka Housing
Authority Inspector; LINDA
FREDERICKS; LINDSEY HALL;
SECRETARY OF UNITED STATES
DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT; INSPECTOR
GENERAL OF HOUSING AND URBAN
DEVELOPMENT; DONNA
WHITEMAN, Secretary of Kansas Social
and Rehabilitation Services; FAIR
HOUSING DEPARTMENT; UNITED
STATES OF AMERICA; DAVID HALL;
KANSAS DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES,

Defendants-Appellees.

No. 96-3218
(D.C. No. 94-4224-SAC)
(D. Kan.)

ORDER AND JUDGMENT*

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Before SEYMOUR, Chief Judge, KELLY, and LUCERO, Circuit Judges.**

Mr. Weaver was a tenant in a federally subsidized rental program and now appeals from the district court's dismissal of his action arising from a \$558 damage assessment against him. Although the district court considered matters outside the pleadings in ruling on the motions to dismiss, it also gave Mr. Weaver an opportunity to seek reconsideration with evidentiary materials. See Fed. R. Civ. P. 12(b)(6). Although he filed an untimely motion for "redetermination," Mr. Weaver did not come forward with either evidentiary materials that create a genuine issue of material fact or legal argument responsive to the district court's resolution.

AFFIRMED. We GRANT Mr. Weaver's motion to proceed without prepayment of costs or fees. All other pending motions and objections are denied. The mandate shall issue forthwith.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge

** After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.